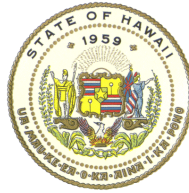


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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**MAUI / LĀNAʻI ISLANDS BURIAL COUNCIL
MEETING MINUTES**

**AGENDA MAUI LĀNAʻI ISLANDS BURIAL COUNCIL MEETING DATE: February 3, 2021
TIME: 8:45 AM**

I. CALL TO ORDER

Chair Dane Maxwell: 9:00 on the date call to order

II. ROLL CALL – [00:21]

MLIBC Members in Attendance:

Kaheleonolani Dukelow

Iris Peelua

Kyle Nakanelua

Johanna Kamaunu

Scott Fisher

Dane Maxwell

[1:13] Timestamp: SHPD Staff in Attendance

[1:36] Hinano Rodrigues, History and Culture branch chief

[1:42] Ikaika Nakahashi, Cultural Historian

[1:50] Iolani Kauhane, Maui Archaeologist

[2:00] Tamara Luthy, Ethnographer

[2:18] Cindy Young, AG's Office

[2:28] Andrew McAllister, Maui Archaeologist

Agenda changes: correspondence A from Mr. Foster Ampong, withdrawn until the next meeting. Kealana is not able to be here and he is most updated, so we will discuss at the end of the month.

III. APPROVAL OF MINUTES

[4:09] Ikaika: Most of the 2020 MLIBC minutes are available publicly on SHPD website in draft form. We hope to complete as soon as humanly possible – available in draft form SHPD website 9:04

- A. May 20, 2020
- B. September 30, 2020
- C. September 30, 2020 – Executive Session
- D. October 8, 2020
- E. October 8, 2020 – Executive Session
- F. October 28, 2020
- G. October 28, 2020 – Executive Session
- H. November 18, 2020
- I. November 18, 2020 – Executive Session

III. BUSINESS

[4:57] – Moving to Business

A. Training for Maui Lāna‘i Islands Burial Council on membership, roles, and responsibilities. Information/Discussion/Recommendation: Discussion on the above item. (BRING BLACK TRAINING BINDER) The Council may go into Executive Session pursuant to Hawai‘i Revised Statutes section §92- 5(a)(4), in order to consult with its attorney on questions and issues pertaining to the Council’s powers, duties, privileges, immunities, and liabilities.

[5:19] Dane - Many of us have served multiple times. Iris and Kyle for training

[5:43] Ikaika is doing the overview of the rules and doing a screen share

Dane: There was a question of what exactly we want to focus on. My thing is, if we were not here and there was a new council is there standardized training? How would we introduce a new council member? We’ve been here a while so what would we like training on? Overview of training from SHPD and during this Dane requests that council members think of new questions for future trainings.

[7:00] Ikaika Shares screen; requests everyone to view HAR 13-300 section 24. We wanted to review the council’s duties and responsibilities, SHPD’s duties and responsibilities. Today is a brief overview of duties and responsibilities and if you can identify specific things you want to train on then SHPD and the AG will work on developing a training program for a later date based on what the council wants to be trained on. Starting off with HAR 13-300-24 may I have a volunteer to read duties and responsibilities?

Kyle Nakanelua reads HAR 13-300-24

[8:07] Kyle Nakanelua: “(a) The primary responsibility of the council shall be to determine preservation or relocation of previously identified Native Hawaiian burial sites as set forth in this chapter. (b) The council shall assist the department in the inventory and identification of Native Hawaiian burial sites by providing information obtained from families and other sources.(c) The council shall make recommendations to the department regarding appropriate management, treatment, and protection of Native Hawaiian burial sites, and on any matters related to Native Hawaiian burial sites.

(d) The council shall maintain a list of appropriate Hawaiian organizations, agencies, and offices to notify regarding the discovery of Native Hawaiian skeletal remains, any burial goods, and burial sites. (e) By a concurrence of a majority of the members present, the council shall each elect a chairperson and vice chairperson for four-year terms who shall serve no more than two consecutive terms. By a two-thirds vote of its members, the council may at any time replace the chairperson or vice chairperson or both. (f) In accordance with section 13-300-4, the council shall be authorized to deem department records relating to the location and description of Native Hawaiian burial sites sensitive and thereby exempt from the

requirements of section 92F-12, HRS. (g) In accordance with section 13-300-35, the council shall decide whether to recognize a claimant as a lineal or cultural descendant based on a written assessment provided by the department. (h) The council shall be authorized to take any other appropriate actions in furtherance of this chapter. Nothing in this section shall be construed to limit the authority of the council as to matters provided in chapter 6E, HRS. [Eff SEP 28 1996] (Auth: HRS §6E-43.5) (Imp: HRS §§6E-43, 6E-43.5, 6E-43.6, 92F-12)”

Ikaika: Thank you. Any questions about the duties and responsibilities in 13-300-24?

[10:32] – Johanna – I do, Ikaika. Everywhere that it says “the council shall” - esp. when it talks about “maintain a list of appropriate Hawaiian organizations” - is that literally the council members to have that list or is that SHPD’s kuleana in some way?

Ikaika: Kyle can you read that section again for us?

Dane – Hold on one sec everybody, can we hold question to the end? Let’s not ask questions till the end please, we have till 9:30 to cover this agenda item.

Ikaika: Moving on to HAR 13-300-25, may I please have a volunteer to go over “meetings?”

[11:28] Kahele – “(a) The council shall hold regularly scheduled meetings at a time and place established by the council. Notice shall be given in accordance with chapter 92, HRS. The purpose of the meeting shall be to acquire information relating to Native Hawaiian burial sites, make recommendations to the department regarding Native Hawaiian burial sites, and determine the proper treatment of previously identified Native Hawaiian burial sites. (b) All meetings by the council shall be open to the public, provided the council may meet in executive session pursuant to chapter 92, HRS, from which the public may be excluded, by a recorded vote of two-thirds of the members present. No order, ruling, or decision shall be finally acted upon during executive session. (c) Following recognition by the chairperson, any person may submit oral or written testimony to the council regarding a matter under consideration, provided that applicants wishing to conduct an informational presentation or present a proposed burial treatment plan for determination, shall first submit a written request to the department to be placed on the council meeting agenda. (d) The council may close a meeting whenever location or description of a Native Hawaiian burial site is under consideration. The chairperson, by concurrence of a majority of members present at the meeting, shall be authorized to require the public to leave the meeting while the confidential matter is being discussed and reopen the meeting once the confidential matter is no longer being considered. (e) Written minutes of the council meeting shall be approved by the council. Upon request, the department shall make available to the public copies of the council minutes with the exception that the public minutes shall not reflect closed meeting discussions relating to confidential matters. [Eff SEP 28 1996] (Auth: HRS §§6E-43.5, 91-2) (Imp: HRS §§6E-43, 6E-43.5, 6E-43.6, 92-3, 92-4)”

HAR 13-300-26 Quorum

[13:42] – Scott Fisher – “A majority of the council shall constitute a quorum to conduct business and a majority of the members present at the meeting shall be necessary to approve any council action. [Eff SEP 28 1996] (Auth: HRS §6E-43.5) (Imp: HRS §§6E-43, 6E-43.5, 6E-43.6)”

[14:20] Dane Maxwell –HAR 13-300-27 – “(a) Duties of the council chairperson shall include, but not be limited to, the following: (1) Preside over all council meetings to ensure the orderly conduct of relevant business; (2) Be available to serve as an appeals panel member; and (3) Conduct any other duties necessary and appropriate to fulfill the responsibilities and obligations of the council. (b) In the event the council chairperson is unable to carry out the responsibilities stated in subsection (a), the vice chairperson shall be responsible for the same. In the event the chairperson and vice chairperson are unable to preside over the council meeting, the council members shall elect from amongst those present, a member to chair the meeting. [Eff SEP 28 1996] (Auth: HRS §6E-43.5) (Imp: HRS §§6E-43, 6E43.5, 6E-43.6)”

Role of department -

[15:18] - Johanna – “(a) The department shall provide all necessary administrative support services to the council which shall include but not be limited to the following: (1) Post a notice of council meeting agenda with the Lieutenant Governor's office; (2) Make necessary arrangements to reserve a place for council meetings and assist in arranging site inspections; (3) Record and transcribe minutes of council meetings; (4) Acquire and verify all information necessary for a council determination of burial treatment and refer the matter to the council for determination; (5) Submit to the applicant in writing the council's determination and any recommendations accepted by the department; (6) Generate correspondence on behalf of the council to implement the applicable provisions of chapter 6E, HRS, and this chapter; (7) Provide information to the council on any matters relating to appropriate management, treatment, and protection of Native Hawaiian burial sites and on any other matters relating to Native Hawaiian burial sites; and (8) Conduct any other administrative acts as deemed necessary. (b) The department shall develop a statewide inventory which identifies and documents burial and reburial sites in accordance with section 13-300-31. (c) Legal issues may be referred to the attorney general's office for appropriate action. [Eff SEP 28 1996] (Auth: HRS §6E-43.5) (Imp: HRS §§6E-43, 43.5, 43.6) §§13-300-29 to 13-300-30 (Reserved)”

Ikaika – Thank you very much council member Johanna. That is the brief overview and intro. Please take a moment to think about what specific training you want and if you could communicate that SHPD and we will organize and coordinate to have a specific training at a future date.

[17:45] Dane - Ikaika, so any of us can read these things. For the training in the future we need to go over it in more detail. The part is the interpretation, that we need clarity on. In the future we have Cindy who is here. In the future that is how we would like to conduct training and have her provide us with the state interpretation of what is presented here. Mahalo Ikaika. Council members – this is time to discuss this then we can take testimony

[18:35] Kahele – I think the reminder is good practice – maybe we don’t have to read the whole thing but we probably should start every meeting with brief overview of what the role of council and the department is, not just to remind ourselves but other people in the room. The part I want to focus on is the inventory because that is something that we haven’t paid much attention to – maybe learning about what inventory exists but also helping to help it to exist and be maintained and used

[19:34] – Johanna – Yes, I agree I would like to have access, easier access to the inventory. I have no idea how to access the inventory on our own, evidently we have to get through SHPD staff but I don’t know how to get that information.

Dane: Any response from Ikaika? Ikaika are you there?

Ikaika: Yup

Dane: One of the other things - I wanna make sure we look at most contentious cases that we have. We have Maui Lani, we also have what’s going on in Kauaula or [unclear – **Kaunao?**] and see maybe what we need further clarity on whether its jurisdiction – how we often see issues where is it county’s kuleana or state’s and where in the law we identify these things? I know one thing we talk about all the time is inadvertent in relation to Maui Lani? Can we agree that those are the things that we want to focus on? So. Thin about what is our most contentious cases and also think about shoreline erosion. Where in the law we fit into that in how we want to apply our roles in the council to that and how we want to use the language, where we would need interpretation of the language. [Ikaika puts SHPD rules into the chat] We will take testimony

[leaves chat open for testifiers] Kaniloa and Mr. Halealoha Ayau request to testify. Each testifier gets 3 minutes warning at 2.5 minutes. Please stay on agenda item.

[23:15] Kaniloa Kamaunu – Mahalo chair. Very important point to be trained. What boundaries and authorities are? We have seen throughout the years, when talking about the inventory, we as the public have been asking for a number from one agency or one company never divulged basically what they had disturbed and so that is important for the public to know what the inventory is, because when we come to you to say it is outrageous what they are doing at least you have a perspective and we are not lying about what we are saying. Malama Kakanilua has 7 contested cases, we just go through one on a company that has been not following the rules – it is important for you not only to understand your position but also understand the rights or boundaries of archaeological work and administrative rules with us going to court on a lot of these matters – we found that a lot of violations has not only taken place on the corporation side but has been at the burial council [unclear] – not reviewing certain things as well as SHPD whose responsibility is to protect the validity of the history of the mo‘olelo and historic info that comes from the public so it is important for you all to understand what we are challenged with as the public to go forward with these cases together. Already should be done within your realm to make sure SHPD also falls in with [unclear] with your direction and what you are responsibility for and helps us as the community to do our job which is protect iwi kupuna. Mahalo

Dane – any questions for our testifier? I see none. Ok mahalo Kaniloa. Next, we have Halealoha Ayau

[26:46] Halealoha Ayau – Aloha mai kākou. I just wanted to comment. Number 1- I am glad that finally there is an effort to provide training – the concern is that many of you have served on the council for years now and training is just being offered now. Um that’s a serious concern. Having been the first administrator or coordinator of burial sites program, let me just revisit how, when we first started the program, how we approached training. It was done as soon as the councils were put together and whenever new council member joined the council there was review. A pack of info was provided with the rules that you just read and a time was taken each meeting to explain what each section means in terms of your work, which is critically important to understand just the extent of the council’s authority and breadth of responsibility. So, I am a little troubled by approach of asking you what it is that you want to learn about because if I didn’t know if wouldn’t know how to answer that question. So, the approach just providing comprehensive training and then taking time to focus on issues of particular concern make more sense to me. I am just happy that it is finally being addressed and hope that it becomes part of the regular protocol managing council or managing councils going forward not just in response to pressure and press conferences or concerns beings raised by island burial council chairs that the training isn’t being provided to the councils and also to ensure that that same level of training is also provided and to staff to make sure that they have a clear understanding of the rules and the role. Mahalo

[30:10] – Keeaumoku Kapu - Mahalo for this dialogue at this moment – I think [unclear] this workshop years ago when I was part of the burial council – I think Scott Fisher was there too during the same, this was during Melani [? Unclear] time that’s when we had corporate council attending some meetings but don’t know about fall out. But it is really important because for me, now I am not on the burial council and I have a lot of issues, especially the issues happening in Kaua‘ula and Lahaina. We have been going to the burial council asking them for a cease and desist – to allow the burial council and SHPD to assess the situation. All fall on deaf ears based on the fact that the county said that there was an **[extension?**

31:18] in the extension of the pipeline, especially the length of the pipeline. SHPD took no stand and to me that’s kinda troubling because as an old member of MLIBC, what I learned in the training is it gives burial council some kind of authority to make sure general community is not left wondering where do we go from here. And it’s really heartbreaking to know that in order for us to get something across we gotta file a contested case. That’s not the route we really want to go. It all boils down to protection of iwi kupuna – and especially to define what gives the right for someone to come in that has no affiliation to the area to ask developed they wanna build the wall without the discretion of the MLIBC or the discretion of the state – how we can gain some clarity to allow these so called things to happen in spite of tremendous time I have to put in to show I have standing as a recognized descendant for them to not come forward. I

am glad this discussion is happening, and the Burial Council needs to batten down a little bit more than you.

[33:14] Noelani – I just wanted to briefly say thank you for AG and corporation council for coming today. It is a really important part of the puzzle coming today, because like Uncle Kaniloa said, the community has been boots on the ground trying to figure out the laws, trying to take things to court, trying to make sense of things instead of the department and agencies tasked with these problems doing their job. So, we have a serious delinquency in SHPD, no offense to anyone personally but the ball has been dropped and iwi kupuna have paid the price. We don't have the adequate inventory information we have been asking for years or the map – the only reason we are beginning to know what is going on and the scope of it is because of the County Archaeologist position and the cultural overlay map. We are starting to see the SHPD data. But the SHPD's data is not all completed, it hasn't all been entered into the system, the library was a mess for years, and then we have poor interpretations of laws and rules by SHPD. Rather than having a legal opinion, we have folks in SHPD determining what a burial site is or an inadvertent find, those poor interpretations left our iwi vulnerable allowed iwi to be dug up and sitting on shelves and I have a real problem with that. This is a continuation of cultural genocide its our ancestors we are talking about and it's not acceptable. I really appreciate the AG being here and I do hope we can find remedy – for our ancestors, for us today and for our future generations. Enough already. Mahalo.

[35:42] Tammy Harp –Good morning everyone. For me this is like a homecoming, in a sense because in 1993 Halealoha she met him there and kapuna kahu Uncle Charlie Maxwell was there and the issue was pertaining to Malawa area, Puupiha – and pre and post burials that remained in place there. She is gonna seek lineal descendancy of Puupiha cemetery and she will be having her paperwork done cuz wants to protect Mala Wharf Mala Small Wharf complex, the Mala boat yard, the Mala Small Boat Ramp and Puupiha Cemetery, and Mala Wharf and its submerged lands. That mooring vessels has gotta go, it's time is pau. Puupiha Cemetery. The most expensive asset there is the comfort station almost \$800,000 to put comfort station there. But any way I would like to suggest need to set some kind of curriculum for the near future cultural monitors and you folks should be looking at that as a whole because of the compiled knowledge you folks have with laws and practices. An educational system to take care of near future cultural monitors. That's her suggestion, mahalo.

Dane: Let's stick to business item which is training

[38:50] Lehuanani –My name is Princess Lehuanani Kumaewa Kainakaleo Momona. She lives Oahu now, but she was born and raised in the kingdom of Maui. She represents the **Wainee** and **Waiokama** ahupua'a going up to Kauaula valley – she was raised there as a child, she ran wild. Thank all of you for brand new thing. She has been trying to work with you folks concerning Loko o Mokuhinia. 1993, bones iwi artifacts were dug up. Moved to Oahu five years ago and now she interfaces with Bishop Museum. It's so important we learn the rules now because we've got 20 boxes of bones that she laid claim from Bishop Museum and artifacts. She is working with Richard Kong – he brought back 20 boxes of artifacts and bones dug out from Loko O Mokuhinia, also known as **Moku'ula**. After 1993 she had fought with the county to stop illegal digging of Loko O Mokuhinia but within 30 years the whole land was dug up and she went to Oahu and faced with Alan Downer. He agreed this that because this sacred place was national register historic site, nothing should have been dug up from that ground. She is asking, with the new rule's you guys are making, will the 20 boxes be returned within a month or two. Please contact Bishop Museum – she talked to the president of Bishop Museum who gave her all rights to bring bones and iwi back home. We have bone iwi on Maui at the Cultural Survey's office that also need to be returned. We can bring our kupuna back home that was taken out from our ground 30 years ago.

Dane - Any further discussion before council? Concludes testimony. No further discussion by the council. This is the beginning of training. Want to stress how important this is to SHPD, forward comments directly to them. We are not creating new rules just going over them and we are just learning how to

apply the laws as they are and how to apply ourselves in a more effective way. I hope AG can be more present in the meetings what issues are and how to navigate better and apply in more effective way

IV. UPDATES

[42:55] A. Maui Lani Subdivision Phase VI, Ahupua‘a of Wailuku, District of Wailuku, Island of Maui, TMK: (2) 3-8-099: pors. Information/Discussion/Recommendation: Update on the above project.

Dane: I believe Andrew Chianese and Tom Behnki here to present

[43:18] Andrew: Hi I am here; we also have Tom Bahnki here from HBT to present. HBT is waiting to receive final building permits and once they are issued, they intend to begin the next phase of construction and we have created a map of that next phase which we can share

[44:13] Ikaika: you should be able to share

[Andrew shared screen – had issues with share screen; 44:44 shared screen successful]

Andrew: Tom will speak to the specifics of the project if there are any questions

[45:05] Tom – I have a copy of the map here at my desk.

Dane – do we have a copy submitted to council members? Is it possible?

Andrew – I have not previously submitted but we have it as a pdf

Dane - The sewer lines – I see the legend. but I can't make out where the colors are. I can't see where the maroon is.

[46:40] Tom – There is one on road in the lower portion of the drawing, that is actually, the trenching for that was excavated two years ago until we were required to cease operations, so that's already excavated and pending cleaning up the installation – it was observed and cleared as far as any archaeological feature through that whole route up to the little red circle there up to plot 114a and 115a. The little red circle is the revised location of a manhole.

Dane – and below preservation area? This is all below that?

Tom - Yes all below – the blue gray area to the left is portion of the preservation area. We made this map for as much clarity as you get in the actual area where we are working, but if you compare to previous maps like the one the last meeting shows our access route for general idea of the bigger picture.

Dane – So - for limits of ground disturbing activity – what has happened there and what is proposed?

Tom - Ground disturbing activity, referring to - there is foundation excavation around the perimeter of the footprints of the houses there, each has a footing around the perimeter of it going below 2 feet below finish grade of slab, the slab is about 8 inches above grade of the lot. This whole area here, these 8 lots here and this whole area across the other side of the project – the mass grading for that was done 2-3 years ago, in which the ground had been embanked to make house pads, lot pads – that are relatively level and at a preferred elevation so the existing ground on that area - close to preserve 207 206 205 and renumbered lot 140 – that area has been built 2-3 feet from previously disturbed ground 3, going on 4 years ago, that was built up with material from other locations to the east

Dane – Andrew we have the archaeological legend in the bottom left, it is a little hard to identify the markers or indicators there. If we can zoom in, within the affected area if we can zoom in and I can easily distinguish between ones in the preservation area, but are there any there that are going to potentially be impacted?

[50:20] Kahele – I have a question along the same line so - are you saying in lot 207, 206a, 205a, and 140a, that those lots have been filled in after the original grading ---

Tom – They were filled in with the mass grading of this phase in 2016

Kahele – So they were filled in up to how many feet?

Tom 2-3 feet?

Kahele – Cuz we still have foundation trenching and electrical – you still have all the utilities that need to go in when you build the house?

Tom: Yes

Kahele - So how far down will the lowest trench go when talking about sewage water electrical whatever else needs to be installed?

Tom – So that will be probably anywhere between 2-4 feet, the deeper part being more toward the roadway to the right, further away from – about 100 feet away from the boundary of the preserve area where excavation gets deeper than 2-3 feet

Kahele – so potential even though 2-3 feet filled the continued construction will require trenching below that fill up until 4 feet?

Dane: Ikaika, did the recording stop and why?

[52:09] Tamara: Sometimes the Zoom is a little funky and I don't know why it stopped but we have backup recordings too

Kahele: I just started it again. So potentially even though it was 2-3 feet filled, the continued construction will require trenching below that fill up until 4 feet?

Tom – approximately – and more towards the east side where that central road is –basically our trenching ceases at the perimeter of the house but footing plumbing in that end to the left to the west that is down only about 2-3 feet

Kahele – what goes down to 4 feet?

Tom – At the other end of the plumbing line, because of gravity it gets progressively deeper – but that depth is more towards the front of house, towards the road, and the sewer main on that road is installed as of March of 2019 so it seems to me that this is the only limited deep excavation and down only about 4 feet and the original ground was sloping away from the dune so as you get further away from that your depth of fill gets thicker

Kahele – I see in those four lots, I see one burial in corner of 140A

Tom – it's actually outside the lot, in that corner of the lot only nominal ground disturbing activity in that corner of the lot is basically clearing vegetation and fine grading the ground but basically keeping the topography in that corner basically where it is, we might even maybe fill it a little to make it a nice slope but we are not digging any deeper in that corner of the lot

Kahele – So my next question is, looking at the close proximity to the burial preserve and also we have found burials in line with the front portion of these lots, where the deepest trenching will occur for the sewage, what is the plan if you trench and find something near the sewage pipe, what is plan, since the sewage pipe is going to be the deepest trench?

Tom – the sewer main -

Dane – Can I interrupt? Let me add on because sewage is one of my main concern and connectivity –is this sewage line dependent on what happens further on near the preservation area? So, if you dig this, for the sewage line if you can't get more connectivity uphill, will that matter?

Tom – No its actually the sewage main as I said for this area has already been put in, only lot 140 goes to a sewer line up to the road way, that we discussed earlier, is the red line in the roadway which we have excavated the trench for that already but it's been basically there for 2 years. There's really no effect on – sewer line has nothing to do with uphill side of the lots towards the burial preserves. The sewer main that serves the remainder of those lots - lots 203 205 202 206 201 207 - is already installed in driveway that's between those lots where you see the lot boundaries coinciding with the concrete driveway. If you see those little red circles there, that's where the sewer risers are for those lots already. For those lots it's already established where the immediate area around those risers has already been excavated under archaeological monitoring conditions and backfilled. So, the sewer from house runs down at a quarter inch per foot slope and joins the riser at that point, so the deepest portion of the sewer line from each house is where it joins that riser which has already been installed. So, everything to the west, the only excavation to west end of the lot towards the burial preserve is the foundation and the very top of the sewer line which is about the same depth of 2 feet or so below the grade

Kahele – No, so what happens if you discover a burial in close proximity to the sewer line?

Tom – We have our archaeological monitoring plan which addresses what we do in the case of discovery of a burial, but we would cease activity in that area and basically we have flexibility to redesign the route of the line if need be – we would reroute

[59:18] – Johanna – I have an observation. I am looking at the preservation site and this isn't jiving with the previous maps we've seen of the preservation site – and of course it brings in concern of the boundary of the preservation site. I am trying to understand where the buffer is in regard to the preservation site. Because I am assuming that lot is not just the house size but the whole yellow area, so where is the buffer? And I am also trying to figure out – is it correct you said this area was graded in 2016?

Tom – Yes it was mass grading of that area was in 2016, which was done under a county building permit with full archaeological monitoring and full knowledge of SHPD

Johanna – Ok the last thing is I would prefer to see a much larger view of this map that includes burials that were discovered because it appears some are missing

Tom – Well this wasn't meant to include the full burial area, this map was truncated for clarity to show the area where we are actually working. The entire burial preserved map with the burial markers is available in maps council should already have in possession – burial map [unclear]

Johanna – My last question is related to the work that you are doing. My last question is, how do you personally view working with the possibility of discovering iwi in that manner? How do you respect that?

Tom – We use controlled excavation methods in any excavation in proximity to the preserve area – which involved basically peeling out 2 inches at a time with a flat blade and it is continuously monitored by an archaeologist

Kahele – Thank you Tom, I understand what you are saying but that's not what I am looking for

[10:02:20] - Dane – I wanna ask a couple questions of Tom, I want to move this along. What is the extent of the work adjacent to the preservation area, that is in direct proximity to the preserve? How far along is it? What have you done?

Tom – Right now it was mass grading in 2016 was graded to contour lines, so there is a little bit of cut and fill to the surface of the lot. The area behind the houses to the boundary by the burial preserve is fine graded to adjust drainage but pretty superficial, there's no major cut in that area because back of lot

sloped up to meet up to the slope of the adjacent dune. The burial preserve boundary is what was designated in previous plans from when we first started the project – the buffer, the width of the buffer has yet to be established by SHPD

Dane – So I see 3-4 on the left side of the page on the corner of the page – what is the proximity to the property boundary? How close are we talking? There is supposed to be a buffer but doesn't seem like room to have the ability of a buffer. Just trying to figure out what the scale is.

Tom – The establishment of a buffer has yet to be established but thus far the property boundary is there and topography there is still kinda hilly and there is a slope there which we are gonna leave in the corner – the slope in the corner of the lot, sorry it is not a topographical plan here, but there is in previous documents a county grading permit – we are leaving topography there as is in the corner. But as far as a buffer, our ultimate plan is to fence off the burial preserve around that boundary as shown but the final plan of it is still being worked out between our archaeologist and the state

Dane – Andrew, can we get - next time - can we get a higher view of this map of this project area and shift south west a bit more to see a little more of the preservation area and the potential impacts on it and have this document forwarded to us so we can get a clear look and zoom in on it but we have to move on to cultural descendants and their testimony and to get testimony on it. Do we have either Foster or Noelani who are recognized cultural descendants to this project? If they would like to provide updates or testify?

[1:07:15] Noelani Ahia – [she starts her video] She wants to backtrack a little bit at October meeting HBT attorney said no update, then she shared that there was a construction plan, then they shared their plan, then you folks passed a motion to not move forward. Then on Nov. 2 they attempted to move forward, they called law enforcement because they believe that as descendants the work that they were doing was desecration under Criminal Desecration Act of 7:11:11:07 and the project stopped for that day. In November MLIBC you folks requested maps of burial locations in relation to cold planning road they were going to put in. This was before they put it in. You were very clear you needed that info before they moved forward with construction. Their attorneys sent a letter to her attorney saying that you folks accepted that they were moving forward and just needed to provide that info at the next meeting – but that's not what you said, I went back and reviewed. On Dec. 8, no beginning Dec we had a court date and Judge Lewis (Liu?) is holding sanctions over me. On Dec. 18th they went ahead and did their construction without coming back to you with a map of the burials in relation to the work that they were going to do. On Jan 19th she received another notice of construction via her attorney and on Jan 22 they installed a temporary power pole that evidently you folks were not updated about still. She just wanted to make sure that you folks are up to date with what I actually happening here. When her attorney reached out to HBT attorney to ask for the scope of the work they were doing for this January temporary power pole, they said they did not need to provide that to her, only need to provide notification that they were doing construction. So now we have a temporary cold plane road in that parcel right next to the burial preserve and potentially over burials and a pole you weren't informed about. What Auntie Johana was asking about buffer zones – she has a big issues with this - there is no determined preservation boundary as Tom said – we have previously known burials in there – look slike three and four on the map – those are not individual burials those are sites. That is right at the corner of junction of road they just put in – those are previously known, under jurisdiction of the burial council. She would like to ask SHPD to do an investigation and go through the BTPs, all the determination letters and find out what was said because as far as she knows, in the BTP 2008 it says supposed to be a thirty-foot buffer for those previously known burials. That is not thirty feet from where those burials are to the road they just paved over and where the house lot is supposed to be. That is not thirty feet. Then we have issue of whether or not these are inadvertents. The burial council has made the motion that these were previously known, we went to 13-300-31, SHPD and the department DLNR has not come back with a legal determination and a citation of the law that says that those are not inadvertent finds to you folks. So as far as she is concerned, you folks have made that determination that these were previously identified and were not given a legal reason why

or the status of the law in writing that could be shown to the rest of us. So, the sewer line – last time we talked they were planning on using an auger below the burial preserve which is completely not ok with anyone. Tom said in his statement that the developer was waiting to talk with archaeologist and SHPD about the burial preserve. That is not how this works. There are descendants involved, there is the entire burial council, there are previously known burials – it is not up to the developer or the archaeologist to determine what this preservation is. Because we are in a court case, I have heard that you folks feel a little bit disempowered. I would ask that you folks please entertain motion to write to the judge, let her know what your thoughts on this project are and make certain that the developer is doing appropriate consultation with the burial council, as was stated. There is an old letter that said that everything with this development with ground altering is supposed to be done in consultation with the Burial Council and SHPD's Archaeology branch not just history and culture – this is on the record, maybe we can find it and agendize it for the next meeting. This is unacceptable to move forward, even though the judge said that they could move forward with construction, but the court order said they must follow all applicable laws and rules – that means being a good neighbor and coming together and working together to come up with this preservation plan is gonna be before you put houses up. The preservation plan must be done before construction. We have 200 burials in there, I know we said 180 in court case because we didn't include 2797. But in the last contested case Lisa Rotunno-Hazuka said 2797 is part of phase six, so that means we have 200 plus burial, and we know we do not have records of disarticulated iwi because Lisa didn't take GPS points and SHPD didn't do inadvertent find forms for them so they are actually in contempt in that respect. Thank you very much.

Dane – Any questions by the council for Noe? I see none. We will open it up to public testimony. I have concerns with update, we did ask for an update back in October about the road and how it would impact. With the preservation buffer, I would like to see if SHPD has a response on communication and then allowing them to have that one lot so close to 3,4, but we will take testimony first then we will come back to that

[1:15:58] Kaniloa — Aloha chair and council members. Glad you all have training on responsibilities but part of that training should relate to the rights of the people and the rights of the iwi kupuna which were given to them in 1860 – he has talked many times before about the burial rights they have and given in written form to the council before. It should be looked at again. Any person not having the legal right to do so, dig up disturb or remove any human bodies – if there is an act for the protection of the kupuna and if that is not being protected or enforced by SHPD or enforced by the burial council and not being taken into consideration. The only rights being taken into consideration are the rights of the corporations or developers – but as seen in Mauna Kea case we have property rights because of iwi there. Again, the iwi have a law specifying their rights to be taken into consideration. According to federal law 103-150, whereas 28, the public law states we are still sovereign – so if we are still sovereign so must be iwi kupuna so the law must apply to them, the law has to be given to them. Our people already had the mana'o, the ike, they need to protect burials, they knew these things would happen, and they in-put in burial laws to protect them. We need to use this. Now talking about 13-300, must also look at 13-283 the county should be aware of with burial sites. It basically states in 13-283, burial site means any specific unmarked location of prehistoric or historic human skeletal remains – it doesn't say humans, it says human skeletal remains. In this area they already accounted for 190 odd kupuna which have been disturbed – the thing is, why isn't it the whole area? According to what I see, if you found one body, the whole 24 acres should be considered a burial site. You also should take into consideration they have two preserve sites on their work site. Which you guys were talking about – they found one while trenching, the 24 acres should already be considered one burial site? Thank you

[1:20:53] Foster — Regarding court case with Jennifer Ahia and Maui Lani Phase 6, question he has – is burial council gonna get involved in the litigation?

Dane – No I do not believe that we are involved in litigation, but we do make requests we would like them to provide updates to be heard and if not complied with at least courtesy of turning back requests

Foster – I would like to remind the council of what took place in Dec. 2019, drafting a letter to the judge in this case, and in that meeting got pretty intense and some people not involved in the court case dictated what to write in that letter and quite frankly chair that shouldn't have happened. The burial council is your kuleana –

Dane – Are we talking about the letter asking them not to do ground truthing?

Foster – Yeah, I'm talking about the letter. This is my point. There is a current litigation regarding burials at Maui Lani and everybody knows his position he is doing the same thing others are doing which is he is trying to protect iwi kupuna as best as we can. If his agenda item had been heard today there are a lot of issues, we could have covered for a remedy but because it's deferred, I am disappointed, I really am. This is his question regarding the update – is the burial council getting involved in current litigation by one of the cultural descendants, because he thinks it's inappropriate

Dane – No but we are concerned about the iwi kupuna we are concerned about them, so when they ask for an update, how close they are to the preservation area, those are within the AIS that are previously known that falls within our jurisdiction. Whether or not this particular place and project is involved in litigation, it doesn't remove them from their kuleana to mālama iwi kupuna and it's intertwined. They still have their function, so their letter to the judge is to tell them not to ground truth every single GPR and don't believe we should disturb every single one. It is very hard to distinguish between the two – that's not kuleana to be involved in this particular court case but it is their kuleana to mālama iwi kupuna and it's hard to do that sometimes.

Foster – I appreciate your responding because back in Dec 2019 the meeting [unclear] the SHPD office, I understand that the things that unfolded there is in regards to ground truthing and I don't think people understood, in that litigation the one asking for ground penetrating radar scan, which is part of a two part process, was Jennifer Ahia.

Dane – Can I ask you a question. This is updates. We are trying to stick to a schedule. We will re-agendize your agenda item. With the current construction that is taking place a proposed for the area, do you have any updates?

Foster – I want to hear from the developer what they are doing because that is the only way he finds out what is happening, he doesn't call them every day. He doesn't hold signs or protest. He depends on info coming from the burial council.

Dane – I feel personally that shouldn't be the case, if they are potentially impacting iwi kupuna whether inadvertent or previously known, then they need to contact descendants and the burial council. I think that is the reason for being recognized in the first place, so you can be a part of the process. If you folks Andrew and Tom, you should reach out to the descendants who have been recognized at the burial council.

Foster - The developers do contact him as it relates to the burial, he wants that on record. It's not like they are not communicating. He is aware of the road and the pole. And he clarifies that the burial council will not get involved in litigation

Motion

[1:27] – Chair Dane Maxwell motions to go into executive session pursuant to HRS 92-4 to consult with their attorney on council powers, duties, privileges, immunities and liabilities

Kahele seconds 1:27:16, 1 abstained (Iris), none opposed – Motions passes 1:27:33

Executive session ends at 1:29:45 of recording; public meeting recording edited to exclude the executive session

Public Testimony on above agenda item: chair and council discuss community testimony

1:30:57 Lehuani – Aloha. Going back to the topic with the area and digging up Nā kupuna, Burial Council please go back and go check and know the difference between descendant and lineal, because you get some people who have been around a long time but they are really lineal for that place and making demands and some of these people are not descendant. Please recognize difference between cultural vs lineal descendants. Because I am a lineal but when you call me you called me to be cultural. So, she has less say because lots of cultural people. This suggestion will help you guys. North Shore Pupukea she didn't claim the three bodies that came up there even though she claims descendancy from her great grand-papa King Kamehameha III through his mother Keopulani. So, she worked with Regina and Alan Downer, she was allowed to be a royal heir to this area. So, she asked them, who is responsible? They said, the one who digs the body. So, she asked, who got the three bodies, because now they made the beach into a park? They were locked up in Wahiawa in a container for 8 years. She went to the container and talked to the kupunas because she has the na'au. The kupunas told her what to do. Ernest Lau of Honolulu was the head – Alani Apio was his name who is in charge of the bodies. This is what she told them to do and it's all on record. That's what we do when we find a body – instead of fight, you claim the kupuna then tell them what to do - bring those kupunas out from the box. So finally, they buried the three kupunas and one more from one ahupua'a over from Pupukea, Pamalu, five right now. Oahu Alani – built her a fourth story stone wall with a gate. When they are done the kahea – 10 PM at night. They covered the hole. When they were pau, they gave the family the key. But they still built. She has no hewa with them. Just put them back in the ground.

[1:35:14] Dane – we did come out of executive session with some good ideas. It's on every agenda so hopefully implement those things in the next meeting. Any discussion and motions? One thing to entertain. Do we want to draft a motion to have interim protection measures be expedited? One of the biggest concerns is interim protections for things that are both in the AIS as a BTP, and all the inadvertent are still in discussion with SHPD. We make a recommendation to SHPD to see interim protection measures established already – they plan to expand as they go along but there are places where they are in close proximity to active construction. It is under SHPD jurisdiction because it is inadvertent, but can we make a recommendation to SHPD and the developer to have these completed before our next meeting at end of month.

[1:36:50] Kahele – Just to be clear, we have five burials identified in the AIS and are previously identified. All of the other burials are inadvertent and therefore are not covered by the present BTP. So some burials are in very close proximity to the area that was just shown where they are hoping to start construction as they wait for the go ahead from the county and because we have no idea what the present interim protections are for those burials, we should make a motion – Scott I am looking at you. We should be updated, we should know, and the public should know, what the interim protection measures are for those particular burials *before* they commence construction.

[1:38:18] Johanna – It was always the case that the BTP comes after everything is done. But the BTP as far as I can see its validity is best immediately when it is discovered so if we need a BTP for every single time they find iwi then one should be drawn up, that's a protection in law already. I understand you want to do the measures and if we can't do the BTP it would suffice for now, but we need something in place as soon as iwi are discovered

Kahele – When you read the law that seems to be the intent: you discover the iwi, you notify, then you create the BTP. But this original BTP was done years ago and since then we have had hundreds of iwi without a BTP because the practice has been to wait till development is done and do another one but she likes the idea of maybe we should require because that's the only way for guaranteed protection

Johanna – We are not limited as to what the burial council to do. Granted there are parameters in law, but it says we are not limited to them. I think what has happened is that it's all evolved to what we have now. We should correct that just for the sake of immediate protection.

Scott – I want to make sure that the two main elements of this particular motion are gonna be additional info on the status of iwi kupuna, and the establishment and implementation of interim protection measures – those are the two elements?

Dane – Is the second one directed to SHPD and to the developer?

[1:40:50] [council members discuss crafting exact language for Scott's motion; questions on establishing precedent for requesting BTP with this motion and recommendation for buffer size, but this is ultimately not included in the motion]

[1:47:40] Dane: How much communication have you [Johanna, district rep] had with Andrew and Tom?

Johanna – She only had one discussion with Tom, she believes, after a site visit. That's it.

Dane: At the end of the motion I will make a request for them

Motion

[1:48:24] Scott makes a motion:

Maui/Lāna'i Island Burial Council requests additional information and updates about the status of the iwi kupuna from the landowner, and for the State Historic Preservation Division (SHPD), in consultation with the MLIBC to establish and implement interim protection measures to ensure the appropriate protection of iwi kupuna prior to the issuance of any Maui County work permits at Maui Lani Subdivision Phase VI, Ahupua'a of Wailuku, District of Wailuku, Island of Maui, TMK: (2) 3-8-099: pors.

[1:49] – Kahele seconds – all in favor, one recused (Iris Peelua), motion carries [1:49:19]

Dane – Wants to request if there is any pilikia in your moku in the community, please reach out to the district rep to pre-discuss before the meeting to hash them out. Dane also wants to make request with the developer of Maui Lani - Andrew, Tom and Johanna – if you folks can communicate a little more and developer keep them in the loop to have a pre-discussion

IV. CORRESPONDENCE

A. Letter dated August 12, 2019 from Mr. Foster Among re: Compromised Integrity of the Maui Lāna'i Islands Burial Council. Information/Discussion/Recommendation: Discussion on the above letter.

Tabled until the next meeting

[1:50] B. Letter dated August 28, 2020 from Mr. Clyde Kahalehau, Po'o of Aha Moku O Wailuku (AMOW) re: Recognition of Marcial Pualani Basbas as Genealogist of AMOW. Information/Discussion/Recommendation: Discussion on the above letter.

[1:51] Dane: Did we have anyone here to present?

[1:51:05] Ikaika – I didn't get a response back, so I am not sure if anyone is here to present. Did everyone receive the letter? Should be in correspondence drive folder. Not sure how we want to approach this, Johanna maybe you might know what is being sought after.

[1:51:32] Johanna – As per their discussions, the moku is informing the council that they have a process in place that helps them to, if need be, certify genealogy work to the point where this work has strong credentials to support its accuracy. She is in favor that mokus identify someone that can sort of be a

spokesperson as far a helping people attain their genealogy, and this is purpose of the moku recognizing Marcial Pualani Basbas in her credentials with genealogy

Dane: Kaniloa was going to present at the last meeting in October. I think we will take this as testimony for now

[1:53:17] Kaniloa – Basically under Act 212 which is what incorporates the Aha Moku, it talks about legislative finds over the past two hundred years, what has been experienced in Hawaii. These changes include deterioration of Hawaiian language, cultural values, and land tenure system – we were incorporated to take care of these areas and part of that is iwi kupuna which is why they brought it to this body and we are imposing Act 212 under DLNR to incorporate our traditional practice of recognizing our people. I know the state has this process through SHPD but since they are allowing us to be in this arena under Act 212, we decided at as a Moku to incorporate our tradition of recognizing our own people in our area and to do that we put into play this person, in the letter in front of you, with her credential as a genealogist. For our purposes we believe – we did have several meetings at Aha Moku for the public to weigh in - that due to Marcial's background as far a genealogist and researcher in this area we feel she has proven to us to be capable of helping us as a moku recognizing those coming forward for descendancy and recognition. As far as descendancy is concerned in our own moku. The process of SHPD is not within tradition of our culture and our people should be able to be the ones to recognize those persons coming forward for descendancy. I believe with Marcial's help she can also help then find their genealogy as well because she has an extensive background – for us it was important we enact this part because we have so much trouble having people recognized coming forward to SHPD so we as a Moku decided to take on the responsibility as is specified in Act 212. Thank you

Dane: Mahalo. Question. Are you seeking our support in recognition of her?

Kaniloa – Yes, we have. That letter you received was voted on by general participants of the Aha Moku and we had several meetings on letter and proposal and the last meeting was to show in favor of that letter that was sent to you by our poo Clyde.

[1:57:38] Keeaumoku Kapu – He would like to support recognition of Marciel Pualani Basbas. He is CEO of Aha Moku, Maui Inc. This is another opportunity for grassroots community to be involved in a proactive way to recognize people so there is a process for people wanting to be involved in this type of process like the Burial Council, to give recognition to those genealogists who are well known in our community and through Act 212 was signed by Linda Lingle passed in 2006 we have a recognized bottom to top management system and previously he sent to SHPD Lahaina's moku burial committee, total of 15 representatives in our moku, and it helps to alleviate some of the issues and concerns esp. with iwi that wash up on the shoreline. There is a process we try to follow through at the same time as the burial council to provide info as they come about. And now they are also in the process of putting together a BTP for Puamana with the county and hoping that the state would look at the revisions of what they are making right now. The reason he brings this up is we need in our mokus – our 12 mokus – to be consistent and provide some sort of assistance to the Burial Council. Mahalo Pualani – he is in strong support of recognition of Pualani Basbas. Mahalo

[2:00:16] Foster – He has a question – the objective of this letter, is this gonna be part of the vetting process when anyone comes forward with their descendancy application?

Dane – I dunno yet – we haven't discussed yet as to what it means. We follow the process and listen to the recommendation letter provided by SHPD. For me, we hope it might help families who go through process to help to draw a clear picture for SHPD when it comes to the process of filing for cultural or lineal descendancy, but do you wanna testify rather than ask a question? Is there testimony? We have not discussed this as a council yet.

Foster – my question is relevant simply because going to his agenda item that got deferred, it addresses several -

[2:01:33] – Johanna – Chair I object to his testimony

Dane – You are out of order.

Foster – no I am not, it pertains to the letter. To the vetting process

Dane: We must decide what it means to the council, as the council. I am not sure if we recognize her as a – yeah.

Foster – My question was, is this going to be part of the vetting process. That is my question

Dane: There is a process in place and that's what is and we haven't had a discussion – so are you for or are you against, because if not we are going to have to move along

Foster: I have serious reservations with this, with the direction it is heading so no, I do not support this at all

Dane- Kahele is there anymore? Let's have the discussion on what this means to us. Do we support letter that recognizes Aha Moku's choice to recognize someone? We don't have power as council to recognize someone as a genealogist, that's just not in our jurisdiction or purview. I hope this helps families identify ohana and helps draw up their application for filing for descendancy. That's what I see as being beneficial – not to alter the process or change the process in any way but hopefully help ohana in Wailuku.

[2:03:13] Kahele –I support if they are offering kokua for genealogy as Keeaumoku has done in the past, I support letting it be known to people in the community that there is expertise out there that can help them in this process and support making known to the community that they can access people in the community that can help them with that

Dane – I see Pualani is here, I just want to ask her what she wants from us and how does she intend to use this recognition – not recognition, our kāko'o and support

[2:04:05] Marcial Pualani Basbas – Aloha, mahalo. It's basically the Aha Moku put together the letter to notify you folks what they were doing in having herself recognized as genealogist and she is also the chair for the iwi kupuna. Basically what it is, is you are right Dane, it is not about replacing the process of the burial council, that's not what it is, but she is here to help families with their genealogy and family history, that's what she is here for. And to also help them so when they do go before the burial council, they actually know who their kupuna is, who their family is and who they area.

[2:05:02] Kyle – No questions but I want to continue the discussion. Proverbial question to everyone: you answer within yourself. 40 years ago, what did you know about genealogy? I know what I knew, and I sure know what I didn't know. And I know throughout this pae aina genealogy wasn't as a huge as it is today. He knows what he had to go through to get his genealogy – go through the Mormon Tabernacle Choir archives and all kinds of stuff, lifting up rocks and looking in dirty pukas to find this all this kind of information and it was arduous and nowadays we are so fortunate to have certain people who dedicated a lot of effort and energy into knowing what they know and researching the things they've research, so hats off to Pualani and those like her who are there to kakoo and support us as a people and this tradition of our, this really, really treasured tradition of ours called mookuahau.

Dane- The next step unless we have more discussion is how we want to kakoo an initiative or a person or a genealogist recognized by Aha Moku o Wailuku

[2:07] Kahele – I think according to Pualani this letter was meant to inform us for us to inform the community – I don't think they need a motion or acknowledgement

Dane: I think they were looking for some sort of recognition or support I dunno if it was a motion

Kahele: Any acknowledgement in our meeting?

Johanna – Well basically as an acknowledgement if the council would consider making a statement encouraging the practice throughout the mukupuni. That way – I think we respect what she's acquired, and she even has a degree – she is attempting to bridge the western idea of genealogy with cultural practices and this is rare. If we could say something to the effect that we would encourage all families and mokus to pursue and look into such matters. Developing something like that would allow her to help with recognized descendancies and we already saw this with one of the cases that came before us, the Grand Wailea – the applicant had one descendant she wanted to go through but Marcial's work showed that there was another ancestor that could give her a better chance and she would have missed that is Marcial Pualani hadn't said that in the executive session. This can be beneficial to everybody and it shouldn't be one person doing all of this for everyone but that it's a process that can be modelled and replicated.

Dane - do we wanna promote a resource for having individuals –

Johana - to encourage development of this

Dane – directed to someone?

Kahele – I think we can say we encourage communities to explore their genealogies and seek out people identified that can help them. I am just going to say one thing about genealogy. Like everything else, genealogy is very political, and it has always been used that way if you know our history. Of course, I support the idea of having people reach out and explore their genealogy but it is not benevolent – genealogies can be used many different ways politically and we see it every day. Beyond the idea that we encourage people to explore genealogies and seek out community experts – that is as far as we – that is within the scope of our council without politically empowering or disempowering our [unclear].

Dane: trying to think about the role in lineal and cultural descendancy. Is it a resource to SHPD to recommend people to go through there? Is she more familiar with burial – lineal or cultural applications?

Kahele: I think that the Aha Moku is creating that resource and process – us just recognizing that the Aha Moku is doing this and making it known to the community is ---

[2:12:05] [Scott puts forward an initial motion, which is then discussed by the council; Kahele wishes the motion to not be so specific and name a specific person to not set a precedent – acknowledge and encourage the practice not empower/disempower particular people; does Johanna need to recuse? Council thinks not, moves forward]

[2:13:41] Scott makes a motion

The Maui/Lāna'i Island Burial Council recognizes the importance of having community experts in genealogical research. MLIBC further encourages those seeking to research or clarify their genealogy to seek out individuals to better understand their mo'okuauhau.

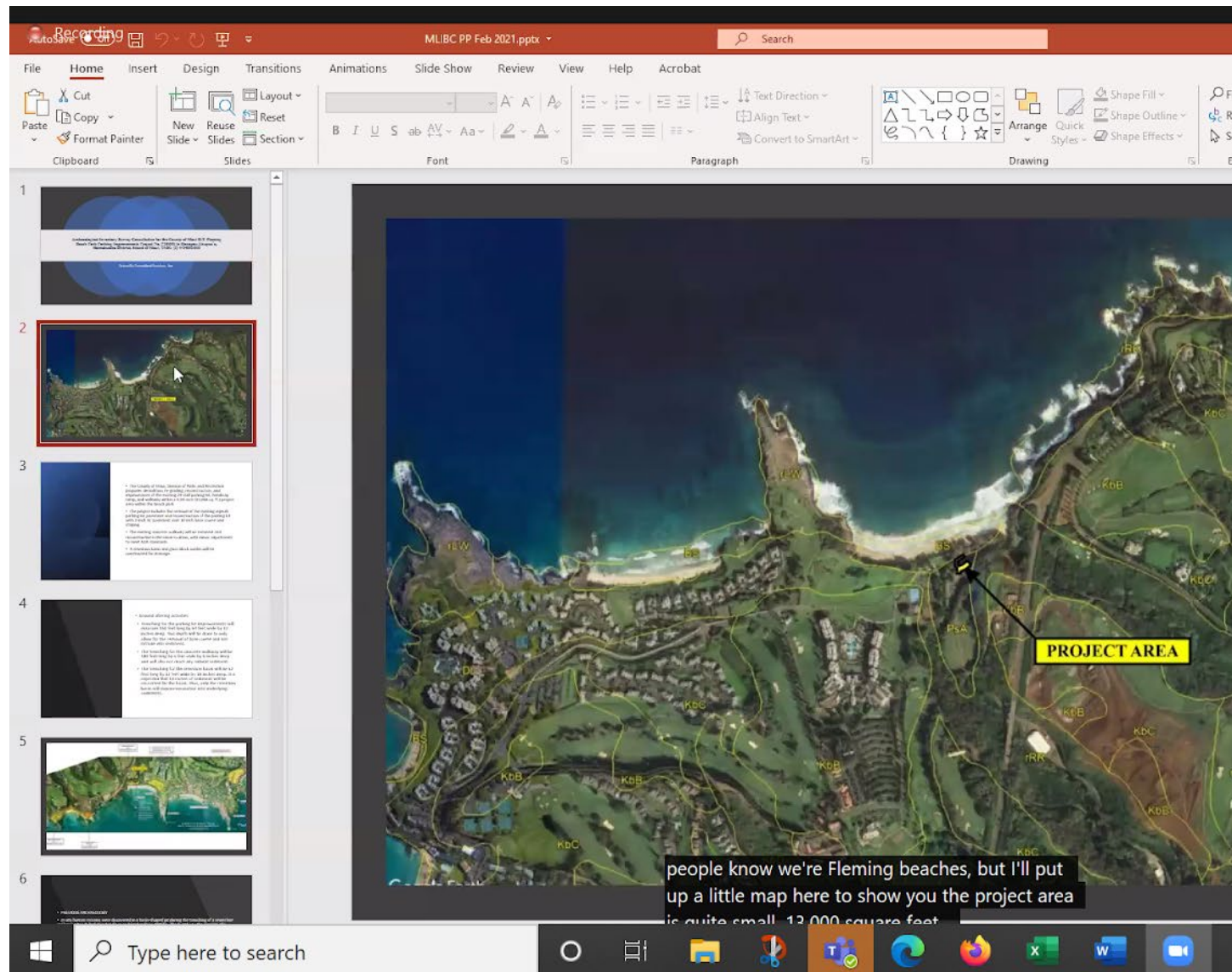
[2:14:09] Kahele seconds, none opposed, motion carries [2:14:43]

**[2:14:53] C. Letter dated October 12, 2020 from Senior Archaeologist, Mr. Michael Dega, Scientific Consultant Services, Inc. (SCS) re: Archaeological Inventory Survey Consultation for the County of Maui D.T. Fleming Beach Park Parking Improvements Project No. P19/001 in Ahupua'a of Honokahua, Kā'anapali District, Island of Maui, TMK: (2) 4-2-004:016.
Information/Discussion/Recommendation: Discussion on the above letter.**

[2:15:27] – Mike Dega of SCS Archaeology and April Shiotani from the county of Maui. They here to consult on an AIS at BT Flemming Beach Park on Maui. We have already discussed a bit with Andrew

McAllister of SHPD and Janet Six of the County and both recommended coming here today to give background and recommendations for methodology moving forward. He would like to do a short presentation and share screen and then write down any recommendations or answer any questions. [shares screen]

This is consultation for county project T19-001. Flemming Beach





Project area is small, 13,000 square feet. Ritz Carlton to the left, the beach to the north. This aerial photograph shows lots of soil types across this part of Maui. This project area occurs in PSA, Palehu Clay Loam, not pure sandy area it's got brown clay loam to 21 inches below surface, 1 foot three quarters. Loam equal parts sand silt and clay. Just to the north of the project area it says BS – "beach sand" – almost at the border of silty clay loam and beach sand. Project has three components – done by the County of Maui Division of Parks and Rec – demolish regrade reconstruct and improve the existing 24 stall parking lot, handicap ramp, and walkway. A little less than a third of an acre for this project.

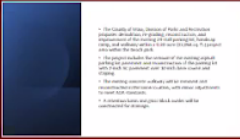
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Slide 3 of 10

Tamara Luthy -...

Unmute

Kyle Nakanelua - MLIBC

Kaheleonolani Dukelo...

Johanna Kamauni - MLI...

they're going to do is remove the asphalt can't read because there's something there, remove the existing asphalt parking lot.

- The County of Maui, Division of Planning and Development, proposes demolition, re-grading, reconstruction, and improvement of the existing 24-stall parking lot, ramp, and walkway within a 0.30-acre area within the beach park.
- The project includes the removal of existing parking lot pavement and reconstruction with 2-inch AC pavement over 10-inch concrete base.
- The existing concrete walkway will be reconstructed in the same location, width, and depth to meet ADA standards.
- A retention basin and grass block pavers will be constructed for drainage.

Tamara Luthy -...

Kyle Nakanelua -...

Kaheleonolan...

Johanna Kamaun...

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What is the ground altering activities that will occur.

- Ground altering activities
- Trenching for the parking lot improvements will measure 150 feet long by 64 feet wide by 12 inches deep. This depth will be done to only allow for the removal of basecourse and not intrude into sediment.
- The trenching for the concrete walkway will be 180 feet long by 6 feet wide by 6 inches deep and will also not reach any natural sediment.
- The trenching for the retention basin will be 32 feet long by 12 feet wide by 18 inches deep. It is expected that 18 inches of sediment will be excavated for the basin. Thus, only the retention basin will require excavation into underlying sediments.

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• PREVIOUS ARCHAEOLOGY

- *In situ* human remains were discovered in a basin-shaped pit during the trenching of a sewer line at Fleming Beach Park (Fredericksen and Fredericksen 1996b). The burial was the remains of a native Hawaiian individual, interred in a flexed position. Preserved in place.
- During archaeological monitoring of the Coconut Grove Project, known as Fleming Beach, Fredericksen and Fredericksen (1996b) recorded two sites, - State Sites 50-50-014814 and -4815. State Site 50-50-01-4814 identified as an *in situ* cultural layer, relating to habitation, was dated to A.D. 1490 to 1665. State Site 50-50-01-4815 consisted of a historic wooden crypt grave containing two individuals.

During the, the sewer line work Frederiksen found a native traditional native Hawaiian individual and turned into flex position that was.

Slide 6 of 10

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• **Task 1:** Full pedestrian survey (100%) of the project area. Although the 0.30-acre area is developed, survey will be done anyways to assess the current ground surface and any disturbances that may have occurred over time. There are no expectations for identifying any cultural resources/historic properties on the surface of the project area. The project area will also be photographed, with overview photographs providing visual recordation of the project area during the survey. These photographs will be presented in the AIS report.

So there is some history of having variables in this location for our tasks for this is for me. We're going to do.

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Task 2: observe the construction crew as they proceed with the construction projects on the walkway and these are both shallow, 6 and 12 inches each, so they don't expect to find anything in the base course, that's modern base course. But we will be watching as they dig this concurrently.

Zoom Meeting

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Michael Dega - S...

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Again, this, this might sound.

- **Task 3:** The SCS team will also observe the entire excavation of the retention basin to 18 inches below the surface over the 384 sq. ft. basin extent.

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This might sound like monitoring but its called an inventory survey therefore if we do find any burials it would be considered previously identified.

[2:22:31] Dane: Mahalo Michael. Parallel AIS, 100%?

[2:22:40] Kahele – I just have a comment. Your historical land summary is really brief. And I think its not just for the purposes of your work but also using this as an opportunity to inform county and community about the history. This happens a lot in AISs where we have zero Hawaiian historians here, almost like Hawaiians did not do anything upon this land. It's my pet peeve. AISs often read like "well Walker said, Kirch said, Sterling said.' Its good, but not complete enough, and I would like to see a more robust history that actually includes Hawaiians and not just the kind of clay and environmental characteristics of the land but also historic. I am saying this because I believe it can also inform the county about how they perceive that particular site and how land use is in envisioned moving forward. If we had done that when the Ritz Carlton was going to be built, it might have helped to inform decisions more early on – I don't anticipate that there will be what we found at the Ritz but this will be an opportunity to educate people and include that historical perspective

Michael: Thanks, Kahele, I apologize. I presented a truncated presentation and we will keep that in mind

[2:55:04] Dane: There is a portion of project intersecting the BS and its hard to see because of the scale of the map and if you zoom in it will how only go so far the resolution, but how much intersects with the BS – only small part on the beach sand and only going 6-12 in base?

Michael – Only a small portion where the walkway and the actual parking area are will be on beach sand which is good because we are only going 6-12 into the base course

Dane – Besides us, who has been consulted with when it comes to this moku, of Kaanapali?

Michael - Just SHPD, Janet, County, you folks.

Dane: Anyone plans for anyone else to be involved in consultation?

Michael – Again that’s up to you guys if you want anyone else to be consulted with in that area, your recommendation we are happy to do it

Dane – What is your monitoring going to be like? How many monitors will you have – one per machine?

Michael – yes standard one per machine and it’s a small work area so only one machine going at a time, so two sets of eyes

Dane – And it is not limited to land that was previously disturbed, this is for all construction not just previously disturbed?

Michael – Correct

Dane: and what are you seeking from us today is this just correspondence?

Michael – Yeah, consultation that SHPD wanted us to come before to seek any recommendations

Dane: Any recommendations by the council? [silence] I see none. I want to do a site visit at some point with you folks

Kahele – I would say that maybe just some kind of community consultation with the Lahaina community is necessary, whether public presentation or something, just let community know what is going on. It is a beach park and that place had life before it was a beach park and sometimes, we forget maybe it doesn’t always have to be a beach park. Maybe we don’t need to redevelop it, whatever. Some community consultation will be good

Dane: we will take public testimony. We have Kaipo

[2:28:52] Kaipo – Kaipo Kekona – he was born and raised in Lahaina; he lives out there. He is pili to the area, has descendants to that place, a lot of family members in the new tradition of cremation have been released out there in that area, a family member alive today was born on that beach before it was a park. He is the Kaanapali moku district representative. He would like to have participation in this subject and based on what presented today and I feel the need to have consultation with the moku system and our community. Based on Frederickson’s finds previous discoveries and work scope gives us concern to known even if we are only going from 1 foot to 18 inches in areas and 6 feet wide in the existing parking lot, still very likely and possible with the Ritz Carlton history and what took place there, it is still very likely and possible in this area that we will desecrate more sites and we would like to have discussion take place before this project moves forward and he is curious to know through process of consultation what type of machinery, how big are the machines going to be, even if they are only going to the subsurface gray level of backfill of parking lot but still like to know that proper procedures and process will take place, that they will be going lightly with a smooth blade. These are their concerns. We are here and we are looking for consultation process mahalo.

Dane – Any questions? If we could include him in site visit and consultation that would be great

[2:31:47] Janet Six – In consultation with Mike and Andrew if I get this wrong let me know but this goes to Kaipo’s concerns. In the AIS Plan, that there would be a flat bladed bucket and going very slowly especially in the excavation going into the tension basin, and we discussed if they would be open to consultation. I wanted to put that out there – this is a strategy that Andrew and I are working on to try to completely avoid any inadvertent discoveries with 100% AIS – so that is the intention, but Kaipo kinda summed up what I wanted to say. I believe that in the archaeology inventory survey plan will address size of machines, the depth going, and it will be a slow going process and it will look like monitoring, but it will result in a complete AIS. We will work with SHPD and the county to release the permits prior to an improved AIS so we can do it in an improved manner

Dane: Any questions for Janet? Ok we have Paul Keahi. Then after this agenda item we are going to take probably a ten-minute break

[2:33:22] Paul Keahi – I just wanted to add – Janet kinda answered part of my question. I would be curious to know, what is beneath the foot or 18 inches in this area, of course, knowing how sensitive the whole area is to iwi kupuna and if a project is even be worth considering in that area. It would be disingenuous for anyone to allow a project to go through knowing that there is iwi kupuna down there or we are not really sure at this time but we can imagine that there might be a lot of burials there still beneath all of that, even if the project only calls for going in 12 or 18 inches. That probably could be viewed as being sensitive but what if there actually are iwi beneath that even, that’s his concern, and it would be good to probably do a little bit more extensive investigation in that research

Dane: Any

[2:35:17] Kyle – I don’t have a question for Paul, but I do have a case in point out at Hamakuapoko in the parking lot at Ho’okipa Beach Park. Because of the erosion through high tides coming up now, its washing away the parking lot and underneath the parking lot area, we are getting iwi kupuna underneath the parking lot, full skeletal systems. It’s underneath the parking to that they built down on. Somehow, they were under there. It is occurring, it has happened before, and we are experiencing it now. That’s all I want to contribute to this portion of the discussion

Dane: Any more testifiers?

Kahele: I do not see any more. I think you have those individuals listed now and we can include Kaipo and anyone else in the site visit. I think that’s it. We will go ahead and take a recess now, let’s go ahead and reconvene at 12:15

[2:36:48] Recess, recording edited to omit the recess time

[2:39:59] Reconvenes the meeting at 12:18; MLIBC will lose quorum at 1; old business will be on the next meeting

[2:40:12] D. Email dated October 13, 2020 from Ms. Kai Nishiki re: Olowalu Elua Associates, LLC., Unauthorized Grading and Encroachments Near SIHP 50-50-08-4693, on TMKs. (2) 4-8-003:084, (2) 4-8-003:046, (2) 4-8-003:047 and (2) 4-8-003:001, Olowalu Ahupua’a, Lāhainā District, Maui. Information/Discussion/Recommendation: Discussion on the above item.

[2:41:14] Ikaika do we have anyone who is presenting on this item?

[3:20:19] Ikaika– I reached out to Kai and Olowalu Associated but no one responded so I don’t think anyone is here today to present.

Dane: Oh, we have Ian! We see you Ian

[2:41:41] Ian Basford SCS – Sorry I wasn’t able to enter the chat, that was disabled as well. Chair would like to give background of our site visit and what we went through we did our site visit that day?

[2:41:58] Dane — Sure I will go ahead and give a brief site visit and quick history of why. He was out there with his family one day flying his drone and he saw a lot of sediment entering the ocean and looked back at the aina and saw it was coming from a particular TMK these ones to be exact and he saw this shoreline – which he believes to be state property – was levelled and all the shrubs were removed or kiawe removed and water making its way inland inundating the shoreline He remembered that there is a preservation area near the shoreline and another inland still pretty close to the shoreline. Water was making its way into. He had a few concerns. A few complaints made – separate from natural potential other violations but his main concern as a burial council member was how it was impacting the preservation area so contacted Ian and had a site visit between time he took video and time he did the site visit then two buffers in place with BMPs and fencing were in place. But what he did notice was that all trees that were cut down were turned into mulch on shoreline where rocks meet dirt – some things put in place, the natural buffer of shrubs and kiawe were eroding away prior to this but maybe a better form of protection. BMPs when he observed them from the drone, they were being pulled into ocean too and he suggested BMPs be set back a little further to protect preservation areas. It looks in place now, but he still thinks the area is susceptible to natural erosion and could be accelerated due to shrubs cut back

[2:44:21] Ian – I am not a representative of Olowalu Associates but here on their behalf as the archaeologist who has been working at the area. We have been monitoring off and on throughout all of Camp Olowalu's areas for many, many years. We frequently go over there for the irrigation lines 18 inches below surface – that area back in the old days was part cane land. In the early 90s Chaminade researches did an AIS and they discovered some displaced human remains once that was mitigated a burial preserve was created – large rocks around the perimeter. Two other sites were located during that AIS, one a series of glade soils on the coastline and another was interpreted as a temporary or permanent habitation remnant site near the shoreline. BMPs sometimes fail or need to be maintained over time probably a matter of unfortunate timing that when chair was flying drone and saw no BMPs but with site visit BMPs were up, a set of older BMPs and a second measure much newer put in place. Some were older and second measure put in place much newer. Area where preserve and site are, if you are here at the ocean, the dune rises up with rocky shoreline and goes back down in toward land so any water flowing out pools before jumps to berm. Also walked around and observed all the mulch. In large preserve area, quotes Glen Trimble, it was heavily overgrown with kiawe and opiuma. They wanted to Clear and opened up to maintain it. They realized they screwed up by not maintaining it all those years at the start. They had to clear out tons of kiawe and opiuma by hand. The the other two sites had fending up, he goes up occasionally and it he goes and sees nothing up he always tells them to put it back up till the project is said and done

[3:47:39] Johanna – I have a question. At the time that chair got pictures of that site resulting in erosion in the ocean, are you saying that the measures that are in place failed to control that erosion?

Ian – I can't attest if any runoff was the cause of that siltation. I believe when chair was out there it was around the onslaught of winter and it could have been maybe runoff from somewhere down the beach as the currents pull it up, I don't know but I didn't witness it. What I can say is Olowalu has been diligent in continually maintaining BTPs because that's their best management. As far as clearing of Kiawes, it is his understanding that they got all the state permits through forgets what agency but to do hand clearing of kiawe in conservation easement with state permits. It's all on record and legal and justifiable. But he wasn't there during hand clearing by chain saw.

Johanna – You realize what we are doing is looking for the source of that runoff into the ocean. So, you are saying that by your estimation, the soil run off wasn't because of measurements were put in place by the landowner.

Ian - Correct

[2:49:45] Kahele – Ian you are representing the landowner?

Ian – No I am speaking as archaeologist who works for them I happen to be the only person available who knows what's going on there because the manager who he worked with is no longer with the company so he is here to pick up some of the pieces and convey some information on the project. I do not represent Olowalu at all

Johanna – So you only assume they have all the permits? You don't have confirmation?

Ian – I was told several times by several different individuals – Glen Trimble, Lawrence Carnacelli, Andrew (?) who is currently camp manager and others said they had all their permits in place and good to go

Dane – Are you able to transmit information to them? Can you have them come in front of us in the future? My concern is water was coming into the preservation site. Want to make sure that perpetual protection for the iwi kupuna are in place for iwi kupuna in place. Whole separate issue of the coastal marine impacts on adjacent area but that's not this venue

Dane: Open to public testimony

Kahele: We have Keeaumoku and Foster

Dane: This is Kai's complaint so if she wants I will put five minutes on the clock [Dane updates Kai on where they are on the agenda as she logged in recently, and updates her on how this will be re-agendize in the future]

[2:52:16] Kai Nishiki – She has not been out there for the past few weeks so she doesn't know current status, but she can tell us what her concerns are and what she hopes to accomplish as far as protection. Concerns were that burials were not receiving proper protection during their activities they were carrying on there and that they had compromised the security of the burials both on the shoreline and a little further back. The proper BMPs were not in place while they were doing their work and also that they wanted to establish descendancy and so we wanted an opportunity to do that as well.

Dane – Ok, maybe schedule meeting with you and SHPD and whoever else is concerned and the developer in a separate meeting and if need be bring it back to the burial council. Ok let's open up to public testimony

[2:55:25] Keeaumoku Kapu of Lahaina – When he was with the burial council some years ago he visited the site so if this is a one-acre cultural preserve in the area, we had a lot of discussion about it and it went south out of the sudden, but maybe the new management regime that took over responsibility of the area some years later – basically what came about was they forgot the site was even there. He remembers doing a site visit with Ian and one thing which was supposed to be done is boulders protecting interim area, those boulders weren't supposed to be touched. It's not only one site in that area, it's a few sites in that area. He condones where Kai Nishiki is coming from, he saw her video coming out on the day when they were doing grading and grubbing. He understands that the state also wanted to clear back the state's kuleana vs. private interest kuleana, that was undefined as a lot of the trees and shrubs were growing on the shoreline. Hopefully from this maybe some better management practices on state side as well as the landowner's side can be done. He does remember this. If they wanna do a site visit he wants to be included as an Aha Moku Maui Rep.

[2:57:35] Foster – Question to the council. The permits – I know you briefly touched on it – but he would like to know who signed off on the permits to allow the developer to move ahead with the activities. That's all he wanted to point out is who signed that permit because I think we can avoid a lot of unnecessary [unclear]

Dane – We want to know the same – I think Kai might know a little bit more but, in the future, if we can re-agendize. Looks like Dr. Six might have the answer

[2:58:48] Janet Six - She doesn't have the answer but she did just email public works so she will get answer to you folks because it would have to be an SMA permit and it would have had to go through all the reviews and she will find out if it was indeed permitted activity

[2:59:18] Tiare Lawrence – Mahalo for putting this on the agenda. Yes, good to re-agendize – kala mai a bit unprepared but there is a lot she wants to so. She wants to touch on that they practiced best management practices – but various times Peter Martin Glen, Tremble's business partner, has violated best management practices. There were several times, 2007 when silt [? Unclear] fences were broken, and Mark Dega filed complaints back then. So, there is a history of poor management. She just wanted to state that anytime removal of invasive species like kiawe or opiuma there should always needs to be a mitigation plan in place. If you remove a tree you should be prepared to be ready to plant natives or something to hold soil in place, what we witnessed down there is very inadequate "best management practices" in place and they put a home there right next to the burials that is put up for sale. When you put up ocean front property you want to get rid of all the trees, put up your ocean front views, I believe that home was listed for \$8 million. Secondly, back then we grew up Olowalu and when sugar was there, they had no issue with erosion or silt because soil was kept in place, but now all these homes and trees and shrubs removed and obviously opening up for exposure to runoffs. She can't stress enough that they have been horrible stewards over the years, we've filed complaints in the past and she wants to discuss more at a later time. She knows when they were putting in the wind break for the highway that – her mom was involved at the time, maybe Keeaumoku can speak to this – there was a high concentration of burials there, so anytime anything is removed or anyone digging in that areas needs to have the utmost respect and rules in place. Mahalo for your time

Dane: Mahalo Tiare. We will see you at a later date

[3:02:22] Uilani [last name] – Uilani wants to make this for the minutes saying that she would like to be part of this project. She has been down there with Ian before and they did a reinternment there. As an Aha Moku of Lahaina she wants to be kept abreast of this, she didn't know it was on the agenda for today but it's a very sensitive issue area to a lot of us in Lahaina and she wants a lot of the lineal descendant there too. Mahalo nui for all you folks do

[3:03:13] Johanna – Dane one question. Do we have any recognized lineal descendants for this area? Any recognized descendants?

Dane: Good question. Is it SHPD/6-E cultural or lineal descendants for this area or are we talking about ohana who know they are from there you know?

Johanna: State recognized descendants

Uilani – yes, we do we have Linda Nahina

Johanna: Thank you

Dane: Mahalo Ui. We have one more.

[3:03:53] Ikaika: Kaniloa

[3:04] Kaniloa – You all had the training this morning, we have been in several contested cases, and in one of contested cases, one of the items that came up was called a "statement of conditions," which states each permit of DLNR issued to an archaeologist's firm or org. operating in Hawaii that conducts archaeology activities should be subject to the following conditions" – first statement depicts that they recognize the archaeologist, which is the principle investigator. Nothing personal against anybody, but this is a sensitive issue as far as iwi are concerned and he has been arguing that some of the people making comments on behalf of corporations are not the principal investigators. The PI is the one that actually puts in for the permit and they are the ones who actually should be in front of the burial council

because they can give the expertise. Anyone else who is working for them and doesn't have those credentials under the "Statement of Conditions" stating that the permit is given to the archaeologist, does not state that the permit is given to the PI, so that means the person who got to the permit is the archaeologist so they are the ones who should be [here]. So, if someone is claiming themselves to be the archaeologist then they should be able to stand up to that and be issued a permit according to the standard that SHPD has for permitting. Also as far as consultation, in your own 13-300 you need to consult native Hawaiian organizations [states he hates this term] – and again he reiterates Act 212 authorizes them to be recognized as one of those groups that always and should be recommended by the MLIBC for consultation because they are a legislative body, they are an active body and a lot of things don't get put to them of course you have lineal and cultural descendants. But as a legislative body under 212 he wants to assure that they be recognized by the burial council as one of those organizations that must be consulted. Thank you

Dane: Mahalo Kaniloa any questions? I see none. We can have discussion, but this will probably be re-agendized in the future. Ian we can have the project management reach out to me either through you or have an initial pre meeting if they are willing to do so. We have 15 minutes left on the clock and quickly running out of time, probably taking old business into next time. Should we table E and take care of a few inadvertent? Ok we will stick with E for now.

[3:08:27] E. Letter Submitted October 30, 2021 from Mr. Ke'eaumoku Kapu & Kapu 'Ohana, re: Complaint of Burial Treatment and Preservation Plans for Burials Identified in the Area Around the Project Site for the West Maui Land Company's Waterline Project, Ahupua'a of Paunau, District of Lāhainā, Island of Maui, TMK: (2) 4-6-015:001.

Information/Discussion/Recommendation: Discussion on the above item.

[3:08:51] Dane: This is a huge discussion from what I – we can start with it. Ikaika do we have a presenter?

[3:09:03] Ikaika: Keeaumoku said he will be here

[3:09:21] Keeaumoku– he is very concerned about the situation we are in and I don't know how we are gonna have enough time to really clearly state his position here and maybe just request a continuance that we can put this on the next agenda because a lot of issues he wants to talk about, not just one inadvertent burial but several. I open up this up to the privy of the burial council because he knows that time constraints that he has, and he won't have time to clarify position at this moment.

Dane – Ok yes, we will probably defer these items. There might be a chance to discuss G, but I think E and F will take way too long to be covered with respect it deserves. Council, can we defer E and F to the next meeting?

[3:10:29] Kahele – hiki no

Dane: Even G is probably automatic

Kahele: For G, at least just let them know what is possible before the next meeting. We can still act right?

Dane: Yeah so maybe

F. Email dated November 6, 2020 from Councilmember Johanna Kamaunu re: Update MLIBC of Preservation Status and All Activity in Compliance with Burial Treatment Plan and AIS at 901 Lower Main Street, Ahupua'a of Wailuku, District of Wailuku, Island of Maui, TMK: (2) 3-8-037:047. Information/Discussion/Recommendation: Discussion on the above item.

To be re-agendized due to time constraints

[3:11:11] G. Email from Ms. Joyclynn Costa, dated January 23, 2021 re: Complaint of the Public Display of Humans Skeletal Remains at Kū‘au Cove, Ahupua‘a of Hāmākuapoko, District of Hāmākuapoko, Island of Maui, TMK: (2) 2-5-004:085. Information/Discussion/Recommendation: Discussion on the above item.

[3:11:30] Dane – you all have complaint letter in correspondence. The biggest issue we have is that, he has seen in multiple instances, due to shoreline erosion – a topic we will cover in March – we have iwi kupuna and malihini or people who are just not in the know of the reverence side and law that protects photography of iwi kupuna. I would love to have Aunt Joyclynn here, I don’t think we have the time, but something needs to be done. He and Kahele had conversation about potentially putting out an educating statement to someone from the media from SHPD, the media

[3:12:29] Kahele – yeah because they had done this kind of public education before

Dane: Yeah I think we were looking as a council to have a letter or motion of kakoo to also hand out with educational statement to say that the MLIBC would like to bring awareness to the laws that are in place to protect photography of iwi kupuna and to the cultural sensitivities of photographing such sacred mea Hawaii of our iwi kupuna. We have to take testimony and try to call Aunty Joc

[3:13:32] Leinaala Vedder – Good afternoon chair Dane Maxwell, MLIBC. She is testifying on Correspondence G found in moku of Hamakuapoko. She is requesting testimony be translated by chair or vice chair [Ikaika places her testimony on shared screen; I believe that she shares her genealogy in Hawaii in the beginning, which is not captured here]

Tamara Luthy -...

Recording

Kaheleonolan...

Leinaala Vedder

Dane Maxwell...

Testimony of Leinaala Kuloloio Vedder MUBC 2_3_2021.pdf - Adobe Acrobat Pro DC

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‘O ka mua, kāko‘o au i ka pāpā ‘ia ‘ana i nā kānaka maha‘oi e pa‘i ki‘i a pa‘i wikiō i nā iwi kūpuna kūmaka i ka lepo. Ua hala ē ka hana hewa o ia ala a me nā kānaka ma ka nūhou e ho‘olaha a e hō‘ike wale aku i nā iwi ma ka lepo. Na ke Akua e mālama iā lākou me ka pono.

‘O ka lua, kama‘āina a ‘ikemaka au i ka lawe ‘ana o nā iwi mai ka āhua lepo e ke kai mai Hāmākuapoko a i Hāmākualoa. Lohe au i nā mo‘olelo o ko‘u tūtū kahu ‘o Moses Kahiapo i hana ‘ia ai me nā kūpuna i lilo i ke kai. Lohe a ‘ikemaka au i nā mo‘olelo o ku‘u kupunawahine ‘o Alice Kuloloio lāua ‘o ko‘u makuakāne ‘o Leslie Kuloloio i hana ‘ia ai mai Hāmākuapoko a i Hāmākualoa. Na lākou i mālama, kanu, a me ho‘oku‘u i nā iwi kūpuna ma mua o ka ho‘okumu ‘ana o nā kānāwai ‘o SHPD, DLNR, DOCARE, a me kēia hui ‘o MLIBC. No laila, eia nō au e ha‘i iā ‘oe e ka ‘elele ‘o Nakanelua. Na‘u nō e hana pū me ‘oe. E hana i nā mea pono no nā iwi kūpuna o nā moku ‘elua.

come on. I know are eating Makarova is another another winner, add my co op who are level.

Okay, bye.

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Tamara Luthy -...

Kaheleonolan...

Leinaala Vedder

Dane Maxwell...

Recording

Testimony of Leinaala Kulaolea Vedder NUBC 2_3_2021.pdf - Adobe Acrobat Pro DC

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‘O ke kolu, ke koi nei au i kēia hui e kauoha i nā kānaka archaeologist i lawe malū a me lawe ‘aelike i nā iwi no ka ho‘okolohua ‘ana, e ho‘iho‘i. Ke noi nei au i kēia hui e ‘ohi‘ohi i nā iwi o Maui i wahi ‘ia a kau i ka waihona a i ‘ole i nā pahu‘ume ma ke ke‘ena DLNR a me SHPD. E ho‘iho‘i i nā iwi i ka lepo a i ‘ole i ke kai. Kahi i hānau ‘ia ai kākou a pau nā Hawai‘i.

I ka mahina ‘o ‘Aukake i 2020, ua leka uila a noi ‘o Joyclynn Costa ia‘u e kūkākūkā me ‘elele ‘o Nakanelua a me kāna mau kia‘i e pili ana i ka mālama iwi kūpuna o Hāmākuapoko. Ua kāhea mai a ua pane au. ‘A‘ole au i lohe ma hope aku.

Na ko‘u makuakāne i a‘o mai i kāna keiki ‘ekolu. “La‘a, Ma‘a, Pa‘a.” No laila, ke kāhea mai ‘oukou ia‘u e hana pono me nā iwi kupuna. E hana ana au e like nā mea i a‘o mai e ko‘u mau ‘aumākua. . . La‘a, Ma‘a, Pa‘a. . . Pēia pū, ‘a‘ole hauwala‘au i ka‘u hana. E kāko‘o mai.

He mū ‘o ia

it kind of blew me away. It had an enemy opponent on EV qu na, na maquila okay colo coin a vote EQ who is a co host ina Conoco

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Kahele: Mahalo nui

Dane – [Dane tries to get in touch with Auntie Jocylynn who logs in but is unable to provide testimony for technical reasons; attempts to get her audio to work lasts for several moments] We will probably re-agendize this, but Scott how are you doing?

[3:18:40] Scott: I gotta get going by one or slightly after so if we could re-agendize this would be great because this is really important

Dane: We are three minutes away so Auntie Joc maybe no pressure, I think we will end this meeting here and re-agendize this item and the last three of correspondence and we can come back. Kahele maybe you can just draft some kind of letter in support of [attempts to get Auntie Joc on]. We will try till 1 pm but once 1 happens we will lose quorum. Sorry if you were waiting to testify on the last three, or on behalf of inadvertent again. I am sorry if we didn’t get to testify if you are here on behalf of any of the inadvertent. Auntie Jocylyn, don’t worry about it, we will re-agendize the item. I guess with that being said I will go

ahead and conclude the meeting. Mahalo everyone SHPD staff, AG's office, all the burial council members, and what is really important to me is participation of community members so mahalo for coming up. It is his hopes to agendize another meeting this month to cover and get caught up so look to the last Wednesday of February as being a potential date. Agenda should be posted 6-7 days in advance of the date, and potential meeting. Aloha

Concludes meeting at 1 PM

[3:21:36 recording ends]

To be re-agendize:

VI. INADVERTENT

A. Inadvertent Discovery of Human Skeletal Remains at West Maui Waterline Project, reported to the Maui Office of the State Historic Preservation Division on October 23, 2020, Ahupua'a of Paunau, District of Lāhainā, Island of Maui, TMK: (2) 4-6-015:001.

Information/Discussion/Recommendation: Discussion about the above find. B. Inadvertent Discovery of Human Skeletal Remains at Kaulahao Beach, reported to the Maui Office of the State Historic Preservation Division on October 27, 2020 and December 12, 2020, Ahupua'a of Hāmākuapoko, District of Hāmākuapoko, Island of Maui, TMK: (2) 2-6-009:023.

Information/Discussion/Recommendation: Discussion about the above find.

C. Inadvertent Discovery of Human Skeletal Remains at Hawai'i Island Land Trust Property, reported to the Maui Office of the State Historic Preservation Division on October 29, 2020, Ahupua'a of Waihe'e, District of Wailuku, Island of Maui, TMK: (2)-3-2-013:010.

Information/Discussion/Recommendation: Discussion about the above find.

D. Inadvertent Discovery of Human Skeletal Remains at the Lot 1-A Condominium Site Improvements Project, reported to the Maui Office of the State Historic Preservation Division on December 22, 2020 and January 13, 2021, Ahupua'a of Waikapū, District of Wailuku, Island of Maui, TMK: (2) 3-8-007:105. Information/Discussion/Recommendation: Discussion about the above find.

E. Inadvertent Discovery of Human Skeletal Remains near Lōpā Beach, reported to the Maui Office of the State Historic Preservation Division on January 4, 2021, Ahupua'a of Kaohai, Island of Lāna'i, TMK: (2) 4-9-002:001. Information/Discussion/Recommendation: Discussion about the above find.

F. Inadvertent Discovery of Human Skeletal Remains at County of Maui Puamana Park, reported to the Maui Office of the State Historic Preservation Division on January 13, 2021, Ahupua'a of Polanui, District of Lāhainā, Island of Maui, TMK: (2) 4-6-033:001.

Information/Discussion/Recommendation: Discussion about the above find.

G. Inadvertent Discovery of Human Skeletal Remains at Kū'au Cove, reported to the Maui Office of the State Historic Preservation Division on January 14, 2021, Ahupua'a of Hāmākuapoko, District of Hāmākuapoko, Island of Maui, TMK: (2) 2-5-004:085.

Information/Discussion/Recommendation: Discussion about the above find.

VIII. ANNOUNCEMENTS

A. Next meeting is scheduled for Wednesday, March 17, 2021 Pursuant to Hawai'i Revised Statutes (HRS) §92-3, all interested persons shall be afforded an opportunity to present oral testimony or written testimony on any agenda item. Additionally, pursuant to a policy adopted by the Maui

Lāna‘i Islands Burial Council at its August 25, 2005 meeting, oral testimony for items listed on the agenda is limited to three minutes per person per agenda item. Interested persons can submit written testimony in advance of each meeting that will be distributed to Council Members prior to the meeting. Written testimony must be submitted no later than 24 hours prior to the meeting to ensure time for Council Members to review it. Late written testimony will be retained as part of the record, but we cannot assure Board Members will receive it with sufficient time for review prior to decision-making. Submit written testimony to andrew.k.phillips@hawaii.gov. Pursuant to HRS §92-4, §92-5(a)(8), and §6E-43.5, and upon compliance with the procedures set forth in HRS §92-4, the Council may go into a closed meeting to consider information that involves the location or description of a burial site or to discuss confidential genealogy. A request to be placed on a Council meeting agenda must be made in writing with the SHPD History and Culture Branch staff at least two weeks preceding the scheduled meeting date. In addition, the request must be accompanied by all related documents. Failure to comply with this procedure will delay the item to the following month’s agenda. Materials related to items on the agenda are available for review at the Maui State Historic Preservation Division located at 130 Mahalani Street, Wailuku, Maui, Hawai‘i 96793. INDIVIDUALS REQUIRING SPECIAL ASSISTANCE OR AUXILIARY AIDS OR SERVICES (E.G., SIGN LANGUAGE INTERPRETER), PLEASE CONTACT STAFF AT LEAST 72-HOURS PRIOR TO THE MEETING AT (808) 243-1285 SO THAT ARRANGEMENTS CAN BE MADE.